

AMENDED IN SENATE APRIL 26, 2011

SENATE BILL

No. 35

Introduced by Senator Padilla

December 6, 2010

~~An act to amend Sections 25620.2 and 25620.15 of the Public Resources Code, and to amend Section 399.8 of the Public Utilities Code, and to repeal Sections 25740, 25740.5, 25742, 25743, 25744, 25744.5, 25746, 25747, 25748, and 25751 of, to repeal, add, and repeal Chapter 7.1 (commencing with Section 25620) of Division 15 of the Public Resources Code, and to repeal Section 399.8 of the Public Utilities Code, relating to energy.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 35, as amended, Padilla. Energy: ~~Public Interest Energy Research, Demonstration, and Development Program. California Energy Research and Technology Program Act of 2011.~~

(1) Under the Public Utilities Act, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations. The act requires the PUC to require, until January 1, 2012, an electrical corporation to identify a separate electrical rate component to fund energy efficiency, renewable energy, and research, development and demonstration programs that enhance system reliability and provide in-state benefits. ~~A violation of the act is a crime Existing law requires that the moneys collected between January 1, 2007, and January 1, 2012, from the electrical corporations for public interest research, development, and demonstration projects be deposited in the Public Interest Research, Development, and Demonstration Fund and be used for the purposes of the Public Interest Energy Research, Demonstration, and Development Program. Existing law requires that the moneys~~

collected by the electrical corporations for the benefit of instate operation and development of existing and new and emerging renewable resources technologies be deposited in the Renewable Resource Trust Fund for the purposes of the Renewable Energy Resources Program.

~~This bill would extend this requirement to January 1, 2013. Because a violation of the act is a crime, this bill would impose a state-mandated local program repeal those provisions.~~

~~(2) Existing law establishes the Public Interest Energy Research, Demonstration, and Development Program for the purpose of making awards for public interest energy research, development, and demonstration projects or programs that are not provided for by competitive regulated markets. Existing law proscribes, until January 1, 2012, procedures that the State Energy Resources Conservation and Development Commission (Energy Commission) is required to follow in adopting regulations to implement the program.~~

~~This bill would require the Energy Commission to follow the proscribed procedures until January 1, 2013.~~

~~(3) Existing law requires that the moneys collected between January 1, 2007, and January 1, 2012, from the electrical corporations for public interest research, development, and demonstration and deposited in the Public Interest Research, Development, and Demonstration Fund be used for the purposes of the Public Interest Energy Research, Demonstration, and Development Program.~~

~~The bill would extend the use of those moneys collected until January 1, 2013, for the purposes of the Public Interest Energy Research, Demonstration, and Development Program to January 1, 2013.~~

~~(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

(2) This bill would enact the California Energy Research and Technology Program Act of 2011 (act). The bill would require the State Energy Resources Conservation and Development Commission (Energy Commission) to establish and administer the California Energy Research and Technology program (CERT) to fund research, development, and demonstration projects that may lead to advancement and breakthroughs to overcome those barriers that prevent the achievement of the state's statutory energy goals. The bill would require the Energy Commission to convene, no less than twice a year, meetings of the CERT

Coordinating Council consisting of members representing specified entities and would require the council to identify the technological challenges that most warranted funding under the CERT and opportunities for joint funding of projects and to make recommendations for avoiding the funding of duplicative projects. The bill would require the Energy Commission to adopt regulations or modify existing regulations to implement the CERT. The bill would require the Energy Commission to consult with the CERT Coordinating Council to establish a process for tracking the progress and outcome of funded projects. The bill would require the Energy Commission to consult with the CERT Coordinating Council and the Treasurer to establish terms that may be imposed as conditions for the receipt of CERT funding. The bill would require the Energy Commission, no later than March 31 of each year to prepare and submit to the Legislature an annual report regarding projects funded by the CERT. The bill would require the Energy Commission, no later than an unspecified date, to contract with an independent entity to review the CERT and require the Energy Commission to report to the Legislature regarding the CERT no later than an unspecified. The bill would repeal the act on an unspecified date.

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 7.1 (commencing with Section 25620)
2 of Division 15 of the Public Resources Code is repealed.

3 SEC. 2. Chapter 7.1 (commencing with Section 25620) is added
4 to Division 15 of the Public Resources Code, to read:

5
6 CHAPTER 7.1. CALIFORNIA ENERGY RESEARCH AND
7 TECHNOLOGY

8
9 25620. This chapter shall be known and may be cited as the
10 California Energy Research and Technology Program Act of 2011.

11 25620.1. The Legislature finds and declares all of the
12 following:

13 (a) California has been a national leader in reducing energy
14 consumption by establishing ambitious goals, policies, and

1 *programs to increase energy efficiency and generation from*
2 *renewable energy sources.*

3 *(b) Achieving these state energy goals will benefit the public*
4 *and energy utility ratepayers through reduced system costs and*
5 *reduced end-user charges for service.*

6 *(c) Barriers to achieving these energy goals and ratepayer*
7 *benefits include, but are not limited to, significant technological*
8 *challenges relating to energy storage, integrating renewable energy*
9 *into the electric grid, and accurately forecasting the availability*
10 *of renewable energy for integration into the grid.*

11 *(d) Breakthroughs to overcome these technological challenges*
12 *and to enable the state to achieve its statutory energy goals require*
13 *strategically focused research, development, and demonstration*
14 *projects.*

15 *(e) It is appropriate and necessary for the state to administer*
16 *a program of research, development, and demonstration to*
17 *accelerate technological advancement and breakthroughs that*
18 *may enable the state to achieve its statutory energy goals.*

19 *25620.2. (a) The California Energy Research and Technology*
20 *program (CERT) is hereby established for the purpose of funding*
21 *research, development, and demonstration projects that may lead*
22 *to technological advancement and breakthroughs to overcome the*
23 *barriers that prevent the achievement of the state's statutory energy*
24 *goals.*

25 *(b) The commission shall develop and administer the program*
26 *consistent with this chapter.*

27 *25620.3. (a) The commission shall, no less than twice a year,*
28 *convene a meeting of the CERT Coordinating Council, which shall*
29 *consist of the following members:*

30 *(1) The chair of the commission, who shall serve as the chair*
31 *of the council.*

32 *(2) One representative from Pacific Gas and Electric*
33 *Corporation.*

34 *(3) One representative from Southern California Edison*
35 *Corporation.*

36 *(4) One representative from San Diego Gas and Electric*
37 *Corporation.*

38 *(5) One representative from the Public Utilities Commission.*

39 *(6) One representative from the Independent System Operator.*

40 *(7) One representative from the State Air Resources Board.*

1 (8) *One representative from the Division of Ratepayer Advocates*
2 *within the Public Utilities Commission.*

3 (9) *Two representatives from consumer organizations, with one*
4 *appointed by the Senate Committee on Rules and one appointed*
5 *by the Speaker of the Assembly.*

6 (10) *Two representatives from environmental organizations,*
7 *with one appointed by the Senate Committee on Rules and one*
8 *appointed by the Speaker of the Assembly.*

9 (11) *Two representatives from university research institutions,*
10 *with one appointed by the Senate Committee on Rules and one*
11 *appointed by the Speaker of the Assembly.*

12 (12) *Three at-large members appointed by the Governor.*

13 (13) (A) *Two ex officio, nonvoting members from the*
14 *Legislature, with one Senator appointed by the Senate Committee*
15 *on Rules and one Assembly Member appointed by the Speaker of*
16 *the Assembly.*

17 (B) *The Members of the Legislature shall participate in the*
18 *activities of the council to the extent that the participation is not*
19 *incompatible with their respective positions as Members of the*
20 *Legislature.*

21 (b) *Each voting member of the council shall serve a term of*
22 *three years.*

23 (c) *The council shall annually identify the technological*
24 *challenges that are the most significant barriers to achieving the*
25 *state's statutory energy goals for which CERT funding is most*
26 *warranted. These technological challenges shall include, but not*
27 *be limited to, energy storage, integrating renewable energy into*
28 *the electrical grid, and accurately forecasting the availability of*
29 *renewable energy for integration into the electrical grid.*

30 (d) *The council shall identify opportunities for joint funding of*
31 *research, development, and demonstration projects, and make*
32 *recommendations to help the commission avoid funding projects*
33 *that would duplicate projects already being funded by the Public*
34 *Utilities Commission, the State Air Resources Board, or any other*
35 *public agency or private organization.*

36 (e) *The council shall comply with the requirements of the*
37 *Bagley-Keene Open Meeting Act (Article 9 (commencing with*
38 *Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of*
39 *the Government Code).*

1 25620.4. (a) *The commission shall award CERT funds for*
2 *projects that may lead to technological advancement and*
3 *breakthroughs to overcome barriers to achieving the state's*
4 *statutory energy goals and that results in a portfolio of project*
5 *awards that does all of the following:*

6 (1) *Is strategically focused and sufficiently narrow to make*
7 *advancement on the most significant technological challenges,*
8 *including, but not limited to, energy storage, integrating renewable*
9 *energy into the electrical grid, and accurately forecasting the*
10 *availability of renewable energy for integration into the electrical*
11 *grid, or technological challenges identified by the CERT*
12 *Coordinating Council pursuant to Section 25620.3.*

13 (2) *Ensures that prior, current, and future research,*
14 *development, and demonstration projects are not unnecessarily*
15 *duplicated.*

16 (3) *Invests in projects of California-based entities unless there*
17 *is a unique need that can be met only by an entity based outside*
18 *of California.*

19 (4) *Results in a reasonably equitable distribution of awards*
20 *from various geographic regions of California, if consistent with*
21 *the provisions of this chapter.*

22 (5) *Maximizes expenditure of funds for research, development,*
23 *and demonstration projects and minimizes expenditure of funds*
24 *for administration and overhead costs.*

25 (b) *The commission shall not award or expend CERT funds for*
26 *any purposes except as provided in this chapter or identified by*
27 *the council pursuant to Section 25620.3.*

28 25620.5. (a) *The commission shall adopt regulations, or modify*
29 *existing regulations, for the solicitation of award applications,*
30 *evaluation of applications, and the award of funds consistent with*
31 *this chapter.*

32 (b) *The regulations shall require each applicant to demonstrate*
33 *how the proposed project may lead to technological advancement*
34 *and potential breakthroughs to overcome barriers to achieving*
35 *the state's statutory energy goals.*

36 (c) *The regulations shall require each reward recipient, as a*
37 *condition of receiving CERT funds, to agree to any terms the*
38 *commission determines are appropriate for the state to accrue any*
39 *intellectual property interest or royalties that may derive from*
40 *CERT funding.*

1 (d) *The regulations shall prohibit any person from participating*
2 *in the evaluation or disposition of any application if that person*
3 *has a conflict of interest regarding that application, within the*
4 *meaning of Section 87100 of the Government Code.*

5 25620.6. *The commission, prior to awarding any CERT funds,*
6 *and in consultation with the CERT Coordinating Council, shall*
7 *establish a process for tracking the progress and outcomes of each*
8 *funded project, including an accounting of the amount of funds*
9 *spent on administrative and overhead costs and whether the project*
10 *resulted in any technological advancement or breakthrough to*
11 *overcome barriers to achieving the state's statutory energy goals.*

12 25620.7. *The commission, prior to awarding any CERT funds,*
13 *and in consultation with the CERT Coordinating Council and the*
14 *Treasurer, shall establish terms that may be imposed as a condition*
15 *to receipt of funding, as the commission determines appropriate,*
16 *for the state to accrue any intellectual property interest or royalties*
17 *that may derive from CERT funding. The commission, when*
18 *determining if imposition of these terms is appropriate, shall*
19 *balance the potential benefit to the state from those terms and the*
20 *effect those terms may have on the state achieving its statutory*
21 *energy goals.*

22 25620.8. (a) *The commission, not later than March 31 of each*
23 *year, shall prepare and submit to the Legislature an annual report*
24 *in compliance with Section 9795 of the Government Code that*
25 *shall include all of the following:*

26 (1) *A brief description of each project for which funding was*
27 *awarded in the immediately prior calendar year, including the*
28 *name of the recipient and amount of award, and a description of*
29 *how the project may lead to technological advancement or*
30 *breakthroughs to overcome barriers to achieving the state's*
31 *statutory energy goals.*

32 (2) *A brief description of each CERT-funded project that was*
33 *completed in the immediately prior calendar year, including the*
34 *name of the recipient, the amount of the award, and the outcomes*
35 *of the funded project, in accordance with the process described*
36 *in Section 25620.6.*

37 (3) *A brief description of each CERT-funded project for which*
38 *an award was made in the previous years but that is not completed,*
39 *including the name of the recipient and amount of the award, and*
40 *a description of how the project may lead to technological*

1 advancement or breakthroughs to overcome barriers to achieving
2 the state's statutory energy goals.

3 (4) A list and description of the technological challenges that
4 the council identifies as the most significant barriers to achieving
5 the state's statutory energy goals, as identified by the council
6 pursuant to Section 25260.3 for the current year and all prior
7 years.

8 (b) The commission shall post on its Internet Web site each
9 annual report, and a searchable database containing information
10 in the annual report and shall also include information on awards
11 made under the former Public Interest Research, Development,
12 and Demonstration Program.

13 (c) The commission shall establish procedures for protecting
14 confidential or proprietary information in public reports about
15 CERT-funded projects.

16 25620.9. The commission, no later than ____, shall contract
17 with an independent entity to conduct a review of the CERT and
18 report the conclusions and recommendations from that review to
19 the Legislature no later than ____.

20 25620.10. This chapter shall remain in effect only until ____,
21 and as of that date is repealed, unless a later enacted statute, that
22 is enacted before ____, deletes or extends that date.

23 SEC. 3. Section 25740 of the Public Resources Code is
24 repealed.

25 ~~25740. It is the intent of the Legislature in establishing this~~
26 ~~program, to increase the amount of electricity generated from~~
27 ~~eligible renewable energy resources per year, so that it equals at~~
28 ~~least 20 percent of total retail sales of electricity in California per~~
29 ~~year by December 31, 2010.~~

30 SEC. 4. Section 25740.5 of the Public Resources Code is
31 repealed.

32 ~~25740.5. (a) The commission shall optimize public investment~~
33 ~~and ensure that the most cost-effective and efficient investments~~
34 ~~in renewable energy resources are vigorously pursued.~~

35 ~~(b) The commission's long-term goal shall be a fully competitive~~
36 ~~and self-sustaining supply of electricity generated from renewable~~
37 ~~sources.~~

38 ~~(c) The program objective shall be to increase, in the near term,~~
39 ~~the quantity of California's electricity generated by in-state~~
40 ~~renewable electricity generation facilities, while protecting system~~

1 reliability, fostering resource diversity, and obtaining the greatest
2 environmental benefits for California residents.

3 ~~(d) An additional objective of the program shall be to identify~~
4 ~~and support emerging renewable technologies in distributed~~
5 ~~generation applications that have the greatest near-term commercial~~
6 ~~promise and that merit targeted assistance.~~

7 ~~(e) The Legislature recommends allocations among all of the~~
8 ~~following:~~

9 ~~(1) Rebates, buydowns, or equivalent incentives for emerging~~
10 ~~renewable technologies.~~

11 ~~(2) Customer education.~~

12 ~~(3) Production incentives for reducing fuel costs, that are~~
13 ~~confirmed to the satisfaction of the commission, at solid fuel~~
14 ~~biomass energy facilities in order to provide demonstrable~~
15 ~~environmental and public benefits, including improved air quality.~~

16 ~~(4) Solar thermal generating resources that enhance the~~
17 ~~environmental value or reliability of the electrical system and that~~
18 ~~require financial assistance to remain economically viable, as~~
19 ~~determined by the commission. The commission may require~~
20 ~~financial disclosure from applicants for purposes of this paragraph.~~

21 ~~(5) Specified fuel cell technologies, if the commission makes~~
22 ~~all of the following findings:~~

23 ~~(A) The specified technologies have similar or better air~~
24 ~~pollutant characteristics than renewable technologies in the report~~
25 ~~made pursuant to Section 25748.~~

26 ~~(B) The specified technologies require financial assistance to~~
27 ~~become commercially viable by reference to wholesale generation~~
28 ~~prices.~~

29 ~~(C) The specified technologies could contribute significantly~~
30 ~~to the infrastructure development or other innovation required to~~
31 ~~meet the long-term objective of a self-sustaining, competitive~~
32 ~~supply of electricity generated from renewable sources.~~

33 ~~(6) Existing wind-generating resources, if the commission finds~~
34 ~~that the existing wind-generating resources are a cost-effective~~
35 ~~source of reliable energy and environmental benefits compared~~
36 ~~with other in-state renewable electricity generation facilities, and~~
37 ~~that the existing wind-generating resources require financial~~
38 ~~assistance to remain economically viable. The commission may~~
39 ~~require financial disclosure from applicants for the purposes of~~
40 ~~this paragraph.~~

~~(f) Notwithstanding any other provision of law, moneys collected for renewable energy pursuant to Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code shall be transferred to the Renewable Resource Trust Fund. Moneys collected between January 1, 2007, and January 1, 2012, shall be used for the purposes specified in this chapter.~~

SEC. 5. Section 25742 of the Public Resources Code is repealed.

~~25742. (a) Twenty percent of the funds collected pursuant to the renewable energy public goods charge shall be used for programs that are designed to achieve fully competitive and self-sustaining existing in-state renewable electricity generation facilities, and to secure for the state the environmental, economic, and reliability benefits that continued operation of those facilities will provide during the 2007-2011 investment cycle. Eligibility for production incentives under this section shall be limited to those technologies found eligible for funds by the commission pursuant to paragraphs (3), (4), and (6) of subdivision (e) of Section 25740.5.~~

~~(b) Any funds used to support in-state renewable electricity generation facilities pursuant to this section shall be expended in accordance with the provisions of this chapter.~~

~~(c) Facilities that are eligible to receive funding pursuant to this section shall be registered in accordance with criteria developed by the commission and those facilities shall not receive payments for any electricity produced that has any of the following characteristics:~~

~~(1) Is sold at monthly average rates equal to, or greater than, the applicable target price, as determined by the commission.~~

~~(2) Is used onsite.~~

~~(d) (1) Existing facilities generating electricity from biomass energy shall be eligible for funding and otherwise considered an in-state renewable electricity generation facility only if they report to the commission the types and quantities of biomass fuels used.~~

~~(2) The commission shall report the types and quantities of biomass fuels used by each facility to the Legislature in the reports prepared pursuant to Section 25748.~~

~~(e) Each existing facility seeking an award pursuant to this section shall be evaluated by the commission to determine the~~

1 amount of the funds being sought, the cumulative amount of funds
2 the facility has received previously from the commission and other
3 state sources, the value of any past and current federal or state tax
4 credits, the facility's contract price for energy and capacity, the
5 prices received by similar facilities, the market value of the facility,
6 and the likelihood that the award will make the facility competitive
7 and self-sustaining within the 2007–2011 investment cycle. The
8 commission shall use this evaluation to determine the value of an
9 award to the public relative to other renewable energy investment
10 alternatives. The commission shall compile its findings and report
11 them to the Legislature in the reports prepared pursuant to Section
12 25748.

13 *SEC. 6. Section 25743 of the Public Resources Code is*
14 *repealed.*

15 ~~25743. (a) The commission shall terminate all production~~
16 ~~incentives awarded from the New Renewable Resources Account~~
17 ~~prior to January 1, 2002, unless the project began generating~~
18 ~~electricity by January 1, 2007.~~

19 ~~(b) (1) The commission shall, by March 1, 2008, transfer to~~
20 ~~electrical corporations serving customers subject to the renewable~~
21 ~~energy public goods charge the remaining unencumbered funds~~
22 ~~in the New Renewable Resources Account.~~

23 ~~(2) The Public Utilities Commission shall ensure that each~~
24 ~~electrical corporation allocates funds received from the commission~~
25 ~~pursuant to paragraph (1) in a manner that maximizes the economic~~
26 ~~benefit to all customer classes that funded the New Renewable~~
27 ~~Resources Account.~~

28 *SEC. 7. Section 25744 of the Public Resources Code is*
29 *repealed.*

30 ~~25744. (a) Seventy-nine percent of the money collected~~
31 ~~pursuant to the renewable energy public goods charge shall be~~
32 ~~used for a multiyear, consumer-based program to foster the~~
33 ~~development of emerging renewable technologies in distributed~~
34 ~~generation applications.~~

35 ~~(b) Any funds used for emerging technologies pursuant to this~~
36 ~~section shall be expended in accordance with this chapter, subject~~
37 ~~to all of the following requirements:~~

38 ~~(1) Funding for emerging technologies shall be provided through~~
39 ~~a competitive, market-based process that is in place for a period~~
40 ~~of not less than five years, and is structured to allow eligible~~

1 emerging technology manufacturers and suppliers to anticipate
2 and plan for increased sale and installation volumes over the life
3 of the program.

4 (2) The program shall provide monetary rebates, buydowns, or
5 equivalent incentives, subject to paragraph (3), to purchasers,
6 lessees, lessors, or sellers of eligible electricity generating systems.
7 Incentives shall benefit the end-use consumer of renewable
8 generation by directly and exclusively reducing the purchase or
9 lease cost of the eligible system, or the cost of electricity produced
10 by the eligible system. Incentives shall be issued on the basis of
11 the rated electrical generating capacity of the system measured in
12 watts, or the amount of electricity production of the system,
13 measured in kilowatthours. Incentives shall be limited to a
14 maximum percentage of the system price, as determined by the
15 commission. The commission may establish different incentive
16 levels for systems based on technology type and system size, and
17 may provide different incentive levels for systems used in
18 conjunction with energy efficiency measures.

19 (3) Eligible distributed emerging technologies are fuel cell
20 technologies that utilize renewable fuels, including fuel cell
21 technologies with an emission profile equivalent or better than the
22 State Air Resources Board 2007 standard, and that serve as backup
23 generation for emergency, safety, or telecommunications systems.
24 Eligible renewable fuels may include wind turbines of not more
25 than 50 kilowatts rated electrical generating capacity per customer
26 site and other distributed renewable emerging technologies that
27 meet the emerging technology eligibility criteria established by
28 the commission and are not eligible for rebates, buydowns, or
29 similar incentives from any other commission or Public Utilities
30 Commission program. Eligible electricity generating systems are
31 intended primarily to offset part or all of the consumer's own
32 electricity demand, including systems that are used as backup
33 power for emergency, safety, or telecommunications, and shall
34 not be owned by local publicly owned electric utilities, nor be
35 located at a customer site that is not receiving distribution service
36 from an electrical corporation that is subject to the renewable
37 energy public goods charge and contributing funds to support
38 programs under this chapter. All eligible electricity generating
39 system components shall be new and unused, shall not have been
40 previously placed in service in any other location or for any other

1 application, and shall have a warranty of not less than five years
2 to protect against defects and undue degradation of electrical
3 generation output. Systems and their fuel resources shall be located
4 on the same premises of the end-use consumer where the
5 consumer's own electricity demand is located, and all eligible
6 electricity generating systems shall be connected to the utility grid,
7 unless the system purpose is for backup generation used in
8 emergency, safety, or telecommunications in California. The
9 commission may require eligible electricity generating systems to
10 have meters in place to monitor and measure a system's
11 performance and generation. Only systems that will be operated
12 in compliance with applicable law and the rules of the Public
13 Utilities Commission shall be eligible for funding.

14 (4) The commission shall limit the amount of funds available
15 for a system or project of multiple systems and reduce the level
16 of funding for a system or project of multiple systems that has
17 received, or may be eligible to receive, any government or utility
18 funds, incentives, or credit.

19 (5) In awarding funding, the commission may provide preference
20 to systems that provide tangible demonstrable benefits to
21 communities with a plurality of minority or low-income
22 populations.

23 (6) In awarding funding, the commission shall develop and
24 implement eligibility criteria and a system that provides preference
25 to systems based upon system performance, taking into account
26 factors, including shading, insulation levels, and installation
27 orientation.

28 (7) At least once annually, the commission shall publish and
29 make available to the public the balance of funds available for
30 emerging renewable energy resources for rebates, buydowns, and
31 other incentives for the purchase of these resources.

32 (e) Notwithstanding Section 27540.5, the commission may
33 expend, until December 31, 2008, up to sixty million dollars
34 (\$60,000,000) of the funding allocated to the Renewable Resources
35 Trust Fund for the program established in this section, subject to
36 the repayment requirements of subdivision (f) of Section 25751.

37 (d) Any funds for photovoltaic or solar thermal electric
38 technologies shall be awarded in compliance with Chapter 8.8
39 (commencing with Section 25780), and not with this section.

1 *SEC. 8. Section 25744.5 of the Public Resources Code is*
2 *repealed.*

3 ~~25744.5. The commission shall allocate and use funding~~
4 ~~available for emerging renewable technologies pursuant to Section~~
5 ~~25744 and Section 25751 to fund photovoltaic and solar thermal~~
6 ~~electric technologies in accordance with eligibility criteria and~~
7 ~~conditions established pursuant to Chapter 8.8 (commencing with~~
8 ~~Section 25780).~~

9 *SEC. 9. Section 25746 of the Public Resources Code is*
10 *repealed.*

11 ~~25746. (a) One percent of the money collected pursuant to the~~
12 ~~renewable energy public goods charge shall be used in accordance~~
13 ~~with this chapter to promote renewable energy and disseminate~~
14 ~~information on renewable energy technologies, including emerging~~
15 ~~renewable technologies, and to help develop a consumer market~~
16 ~~for renewable energy and for small-scale emerging renewable~~
17 ~~energy technologies.~~

18 ~~(b) If the commission provides funding for a regional accounting~~
19 ~~system to verify compliance with the renewable portfolio standard~~
20 ~~by retail sellers, pursuant to subdivision (b) of Section 399.13 of~~
21 ~~the Public Utilities Code, the commission shall recover all costs~~
22 ~~from user fees.~~

23 *SEC. 10. Section 25747 of the Public Resources Code is*
24 *repealed.*

25 ~~25747. (a) The commission shall adopt guidelines governing~~
26 ~~the funding programs authorized under this chapter, at a publicly~~
27 ~~noticed meeting offering all interested parties an opportunity to~~
28 ~~comment. Substantive changes to the guidelines may not be~~
29 ~~adopted without at least 10 days' written notice to the public. The~~
30 ~~public notice of meetings required by this subdivision may not be~~
31 ~~less than 30 days. Notwithstanding any other provision of law, any~~
32 ~~guidelines adopted pursuant to this chapter or Section 399.13 of~~
33 ~~the Public Utilities Code, shall be exempt from the requirements~~
34 ~~of Chapter 3.5 (commencing with Section 11340) of Part 1 of~~
35 ~~Division 3 of Title 2 of the Government Code. The Legislature~~
36 ~~declares that the changes made to this subdivision by the act~~
37 ~~amending this section during the 2002 portion of the 2001-02~~
38 ~~Regular Session are declaratory of, and not a change in existing~~
39 ~~law.~~

1 ~~(b) Funds to further the purposes of this chapter may be~~
2 ~~committed for multiple years.~~

3 ~~(c) Awards made pursuant to this chapter are grants, subject to~~
4 ~~appeal to the commission upon a showing that factors other than~~
5 ~~those described in the guidelines adopted by the commission were~~
6 ~~applied in making the awards and payments. Any actions taken~~
7 ~~by an applicant to apply for, or become or remain eligible and~~
8 ~~registered to receive, payments or awards, including satisfying~~
9 ~~conditions specified by the commission, shall not constitute the~~
10 ~~rendering of goods, services, or a direct benefit to the commission.~~

11 ~~(d) An award made pursuant to this chapter, the amount of the~~
12 ~~award, and the terms and conditions of the grant are public~~
13 ~~information.~~

14 *SEC. 11. Section 25748 of the Public Resources Code is*
15 *repealed.*

16 25748. ~~(a) The commission shall report to the Legislature on~~
17 ~~or before November 1, 2007, and annually thereafter, regarding~~
18 ~~the results of the mechanisms funded pursuant to this chapter. The~~
19 ~~report shall contain all of the following:~~

20 ~~(1) A description of the allocation of funds among existing,~~
21 ~~new, and emerging technologies, the allocation of funds among~~
22 ~~programs, including consumer-side incentives, and the need for~~
23 ~~the reallocation of money among those technologies.~~

24 ~~(2) The status of account transfers and repayments.~~

25 ~~(3) A description of the cumulative commitment of claims by~~
26 ~~account, the relative demand for funds by account, and a forecast~~
27 ~~of future awards.~~

28 ~~(4) A list identifying the types and quantities of biomass fuels~~
29 ~~used by facilities receiving funds pursuant to Section 25742 and~~
30 ~~their impacts on improving air quality.~~

31 ~~(5) A discussion of the progress being made toward achieving~~
32 ~~the targets established under Section 25740 by each funding~~
33 ~~category authorized pursuant to this chapter.~~

34 ~~(6) A description of the allocation of funds from interest on the~~
35 ~~accounts described in this chapter, and money in the accounts~~
36 ~~described in subdivision (b) of Section 25751.~~

37 ~~(7) An itemized list, including project descriptions, award~~
38 ~~amounts, and outcomes for projects awarded funding in the prior~~
39 ~~year.~~

~~(8) Other matters the commission determines may be of importance to the Legislature.~~

~~(b) Money may be reallocated without further legislative action among existing, new, and emerging technologies and consumer-side programs in a manner consistent with the report and with the latest report provided to the Legislature pursuant to this section, except that reallocations shall not increase the allocation established in Section 25742.~~

SEC. 12. Section 25751 of the Public Resources Code is repealed.

~~25751. (a) The Renewable Resource Trust Fund is hereby created in the State Treasury.~~

~~(b) The following accounts are hereby established within the Renewable Resource Trust Fund:~~

~~(1) Existing Renewable Resources Account.~~

~~(2) Emerging Renewable Resources Account.~~

~~(3) Renewable Resources Consumer Education Account.~~

~~(c) The money in the fund may be expended, only upon appropriation by the Legislature in the annual Budget Act, for the following purposes:~~

~~(1) The administration of this article by the state.~~

~~(2) The state's expenditures associated with the accounting system established by the commission pursuant to subdivision (b) of Section 399.13 of the Public Utilities Code.~~

~~(d) That portion of revenues collected by electrical corporations for the benefit of in-state operation and development of existing and new and emerging renewable resource technologies, pursuant to Section 399.8 of the Public Utilities Code, shall be transmitted to the commission at least quarterly for deposit in the Renewable Resource Trust Fund pursuant to Section 25740.5. After setting aside in the fund money that may be needed for expenditures authorized by the annual Budget Act in accordance with subdivision (c), the Treasurer shall immediately deposit money received pursuant to this section into the accounts created pursuant to subdivision (b) in proportions designated by the commission for the current calendar year. Notwithstanding Section 13340 of the Government Code, the money in the fund and the accounts within the fund are hereby continuously appropriated to the commission without regard to fiscal year for the purposes enumerated in this chapter.~~

1 ~~(e) Upon notification by the commission, the Controller shall~~
2 ~~pay all awards of the money in the accounts created pursuant to~~
3 ~~subdivision (b) for purposes enumerated in this chapter. The~~
4 ~~eligibility of each award shall be determined solely by the~~
5 ~~commission based on the procedures it adopts under this chapter.~~
6 ~~Based on the eligibility of each award, the commission shall also~~
7 ~~establish the need for a multiyear commitment to any particular~~
8 ~~award and so advise the Department of Finance. Eligible awards~~
9 ~~submitted by the commission to the Controller shall be~~
10 ~~accompanied by information specifying the account from which~~
11 ~~payment should be made and the amount of each payment; a~~
12 ~~summary description of how payment of the award furthers the~~
13 ~~purposes enumerated in this chapter; and an accounting of future~~
14 ~~costs associated with any award or group of awards known to the~~
15 ~~commission to represent a portion of a multiyear funding~~
16 ~~commitment.~~

17 ~~(f) The commission may transfer funds between accounts for~~
18 ~~cashflow purposes, provided that the balance due each account is~~
19 ~~restored and the transfer does not adversely affect any of the~~
20 ~~accounts.~~

21 ~~(g) The Department of Finance shall conduct an independent~~
22 ~~audit of the Renewable Resource Trust Fund and its related~~
23 ~~accounts annually, and provide an audit report to the Legislature~~
24 ~~not later than March 1 of each year for which this article is~~
25 ~~operative. The Department of Finance's report shall include~~
26 ~~information regarding revenues, payment of awards, reserves held~~
27 ~~for future commitments, unencumbered cash balances, and other~~
28 ~~matters that the Director of Finance determines may be of~~
29 ~~importance to the Legislature.~~

30 ~~SEC. 13. Section 399.8 of the Public Utilities Code is repealed.~~

31 ~~399.8.—(a) In order to ensure that the citizens of this state~~
32 ~~continue to receive safe, reliable, affordable, and environmentally~~
33 ~~sustainable electric service, it is the policy of this state and the~~
34 ~~intent of the Legislature that prudent investments in energy~~
35 ~~efficiency, renewable energy, and research, development and~~
36 ~~demonstration shall continue to be made.~~

37 ~~(b) (1) Every customer of an electrical corporation shall pay a~~
38 ~~nonbypassable system benefits charge authorized pursuant to this~~
39 ~~article. The system benefits charge shall fund energy efficiency,~~
40 ~~renewable energy, and research, development and demonstration.~~

~~(2) Local publicly owned electric utilities shall continue to collect and administer system benefits charges pursuant to Section 385.~~

~~(e) (1) The commission shall require each electrical corporation to identify a separate rate component to collect revenues to fund energy efficiency, renewable energy, and research, development and demonstration programs authorized pursuant to this section beginning January 1, 2002, and ending January 1, 2012. The rate component shall be a nonbypassable element of the local distribution service and collected on the basis of usage.~~

~~(2) This rate component may not exceed, for any tariff schedule, the level of the rate component that was used to recover funds authorized pursuant to Section 381 on January 1, 2000. If the amounts specified in paragraph (1) of subdivision (d) are not recovered fully in any year, the commission shall reset the rate component to restore the unrecovered balance, provided that the rate component may not exceed, for any tariff schedule, the level of the rate component that was used to recover funds authorized pursuant to Section 381 on January 1, 2000. Pending restoration, any annual shortfalls shall be allocated pro rata among the three funding categories in the proportions established in paragraph (1) of subdivision (d).~~

~~(d) The commission shall order San Diego Gas and Electric Company, Southern California Edison Company, and Pacific Gas and Electric Company to collect these funds commencing on January 1, 2002, as follows:~~

~~(1) Two hundred twenty-eight million dollars (\$228,000,000) per year in total for energy efficiency and conservation activities; sixty-five million five hundred thousand dollars (\$65,500,000) in total per year for renewable energy, and sixty-two million five hundred thousand dollars (\$62,500,000) in total per year for research, development and demonstration. The funds for energy efficiency and conservation activities shall continue to be allocated in proportions established for the year 2000 as set forth in paragraph (1) of subdivision (e) of Section 381.~~

~~(2) The amounts shall be adjusted annually at a rate equal to the lesser of the annual growth in electric commodity sales or inflation, as defined by the gross domestic product deflator.~~

~~(e) The commission shall ensure that each electrical corporation allocates funds transferred by the Energy Commission pursuant~~

1 to subdivision (b) of Section 25743 in a manner that maximizes
2 the economic benefit to all customer classes that funded the New
3 Renewable Resources Account.

4 (f) The commission and the Energy Commission shall retain
5 and continue their oversight responsibilities as set forth in Sections
6 381 and 383, and Chapter 7.1 (commencing with Section 25620)
7 and Chapter 8.6 (commencing with Section 25740) of Division 15
8 of the Public Resources Code.

9 (g) An applicant for the Large Nonresidential Standard
10 Performance Contract Program funded pursuant to paragraph (1)
11 of subdivision (b) and an electrical corporation shall promptly
12 attempt to resolve disputes that arise related to the program's
13 guidelines and parameters prior to entering into a program
14 agreement. The applicant shall provide the electrical corporation
15 with written notice of any dispute. Within 10 business days after
16 receipt of the notice, the parties shall meet to resolve the dispute.
17 If the dispute is not resolved within 10 business days after the date
18 of the meeting, the electrical corporation shall notify the applicant
19 of his or her right to file a complaint with the commission, which
20 complaint shall describe the grounds for the complaint, injury, and
21 relief sought. The commission shall issue its findings in response
22 to a filed complaint within 30 business days of the date of receipt
23 of the complaint. Prior to issuance of its findings, the commission
24 shall provide a copy of the complaint to the electrical corporation,
25 which shall provide a response to the complaint to the commission
26 within five business days of the date of receipt. During the dispute
27 period, the amount of estimated financial incentives shall be held
28 in reserve until the dispute is resolved.

29 SECTION 1. Section 25620.2 of the Public Resources Code
30 is amended to read:

31 25620.2. (a) To ensure the efficient implementation and
32 administration of the Public Interest Research, Development, and
33 Demonstration Program, the commission shall do both of the
34 following:

35 (1) Develop procedures for the solicitation of award applications
36 for project or program funding, and to ensure efficient program
37 management.

38 (2) Evaluate and select programs and projects, based on merit,
39 that will be funded under the program.

~~(b) The commission shall adopt regulations to implement the program, in accordance with the following procedures:~~

~~(1) Prepare a preliminary text of the proposed regulation and provide a copy of the preliminary text to any person requesting a copy.~~

~~(2) Provide public notice of the proposed regulation to any person who has requested notice of the regulations prepared by the commission. The notice shall contain all of the following:~~

~~(A) A clear overview explaining the proposed regulation.~~

~~(B) Instructions on how to obtain a copy of the proposed regulations.~~

~~(C) A statement that if a public hearing is not scheduled for the purpose of reviewing a proposed regulation, any person may request, not later than 15 days prior to the close of the written comment period, a public hearing conducted in accordance with commission procedures.~~

~~(3) Accept written public comments for 30 calendar days after providing the notice required in paragraph (2).~~

~~(4) Certify that all written comments were read and considered by the commission.~~

~~(5) Place all written comments in a record that includes copies of any written factual support used in developing the proposed regulation, including written reports and copies of any transcripts or minutes in connection with any public hearings on the adoption of the regulation. The record shall be open to public inspection and available to the courts.~~

~~(6) Provide public notice of any substantial revision of the proposed regulation at least 15 days prior to the expiration of the deadline for public comments and comment period using the procedures provided in paragraph (2).~~

~~(7) Conduct public hearings, if a hearing is requested by an interested party, that shall be conducted in accordance with commission procedures.~~

~~(8) Adopt any proposed regulation at a regularly scheduled and noticed meeting of the commission. The regulation shall become effective immediately unless otherwise provided by the commission.~~

~~(9) Publish any adopted regulation in a manner that makes copies of the regulation easily available to the public. Any adopted regulation shall also be made available on the Internet. The~~

1 commission shall transmit a copy of an adopted regulation to the
2 Office of Administrative Law for publication, or, if the commission
3 determines that printing the regulation is impractical, an appropriate
4 reference as to where a copy of the regulation may be obtained.

5 ~~(10) Notwithstanding any other provision of law, this~~
6 ~~subdivision provides an interim exception from the requirements~~
7 ~~of Chapter 3.5 (commencing with Section 11340) of Part 1 of~~
8 ~~Division 3 of Title 2 of the Government Code for regulations~~
9 ~~required to implement Sections 25620.1 and 25620.2 that are~~
10 ~~adopted under the procedures specified in this subdivision.~~

11 ~~(11) This subdivision shall become inoperative on January 1,~~
12 ~~2013, unless a later enacted statute deletes or extends that date.~~
13 ~~However, after January 1, 2013, the commission is not required~~
14 ~~to repeat any procedural step in adopting a regulation that has been~~
15 ~~completed before January 1, 2013, using the procedures specified~~
16 ~~in this subdivision.~~

17 ~~SEC. 2. Section 25620.15 of the Public Resources Code is~~
18 ~~amended to read:~~

19 ~~25620.15. (a) In order to ensure that prudent investments in~~
20 ~~research, development, and demonstration of energy efficient~~
21 ~~technologies continue to produce substantial economic,~~
22 ~~environmental, public health, and reliability benefits, it is the policy~~
23 ~~of the state and the intent of the Legislature that funds made~~
24 ~~available, upon appropriation, for energy related public interest~~
25 ~~research, development, and demonstration programs shall be used~~
26 ~~to advance science or technology that is not adequately provided~~
27 ~~by competitive and regulated markets.~~

28 ~~(b) Notwithstanding any other provision of law, money collected~~
29 ~~for public interest research, development, and demonstration~~
30 ~~pursuant to Section 399.8 of the Public Utilities Code shall be~~
31 ~~transferred to the Public Interest Research, Development, and~~
32 ~~Demonstration Fund. Money collected between January 1, 2007,~~
33 ~~and January 1, 2013, shall be used for the purposes specified in~~
34 ~~this chapter.~~

35 ~~(c) In lieu of the Public Utilities Commission retaining funds~~
36 ~~authorized pursuant to Section 381 of the Public Utilities Code for~~
37 ~~investments made by electrical corporations in public interest~~
38 ~~research, development, and demonstration projects for transmission~~
39 ~~and distribution functions, up to 10 percent of the funds transferred~~
40 ~~to the commission pursuant to subdivision (b) shall be awarded to~~

1 electrical corporations for public interest research, development,
2 and demonstration projects for transmission and distribution
3 functions consistent with the policies and subject to the
4 requirements of this chapter.

5 SEC. 3. Section 399.8 of the Public Utilities Code is amended
6 to read:

7 399.8.— (a) In order to ensure that the citizens of this state
8 continue to receive safe, reliable, affordable, and environmentally
9 sustainable electric service, it is the policy of this state and the
10 intent of the Legislature that prudent investments in energy
11 efficiency, renewable energy, and research, development and
12 demonstration shall continue to be made.

13 (b) (1) Every customer of an electrical corporation shall pay a
14 nonbypassable system benefits charge authorized pursuant to this
15 article. The system benefits charge shall fund energy efficiency,
16 renewable energy, and research, development and demonstration.

17 (2) Local publicly owned electric utilities shall continue to
18 collect and administer system benefits charges pursuant to Section
19 385.

20 (c) (1) The commission shall require each electrical corporation
21 to identify a separate rate component to collect revenues to fund
22 energy efficiency, renewable energy, and research, development
23 and demonstration programs authorized pursuant to this section
24 beginning January 1, 2002, and ending January 1, 2013. The rate
25 component shall be a nonbypassable element of the local
26 distribution service and collected on the basis of usage.

27 (2) This rate component may not exceed, for any tariff schedule,
28 the level of the rate component that was used to recover funds
29 authorized pursuant to Section 381 on January 1, 2000. If the
30 amounts specified in paragraph (1) of subdivision (d) are not
31 recovered fully in any year, the commission shall reset the rate
32 component to restore the unrecovered balance, provided that the
33 rate component may not exceed, for any tariff schedule, the level
34 of the rate component that was used to recover funds authorized
35 pursuant to Section 381 on January 1, 2000. Pending restoration,
36 any annual shortfalls shall be allocated pro rata among the three
37 funding categories in the proportions established in paragraph (1)
38 of subdivision (d).

39 (d) The commission shall order San Diego Gas and Electric
40 Company, Southern California Edison Company, and Pacific Gas

1 and Electric Company to collect these funds commencing on
2 January 1, 2002, as follows:

3 (1) ~~Two hundred twenty-eight million dollars (\$228,000,000)~~
4 ~~per year in total for energy efficiency and conservation activities;~~
5 ~~sixty-five million five hundred thousand dollars (\$65,500,000) in~~
6 ~~total per year for renewable energy, and sixty-two million five~~
7 ~~hundred thousand dollars (\$62,500,000) in total per year for~~
8 ~~research, development and demonstration. The funds for energy~~
9 ~~efficiency and conservation activities shall continue to be allocated~~
10 ~~in proportions established for the year 2000 as set forth in~~
11 ~~paragraph (1) of subdivision (c) of Section 381.~~

12 (2) ~~The amounts shall be adjusted annually at a rate equal to~~
13 ~~the lesser of the annual growth in electric commodity sales or~~
14 ~~inflation, as defined by the gross domestic product deflator.~~

15 (e) ~~The commission shall ensure that each electrical corporation~~
16 ~~allocates funds transferred by the Energy Commission pursuant~~
17 ~~to subdivision (b) of Section 25743 in a manner that maximizes~~
18 ~~the economic benefit to all customer classes that funded the New~~
19 ~~Renewable Resources Account.~~

20 (f) ~~The commission and the Energy Commission shall retain~~
21 ~~and continue their oversight responsibilities as set forth in Sections~~
22 ~~381 and 383, and Chapter 7.1 (commencing with Section 25620)~~
23 ~~and Chapter 8.6 (commencing with Section 25740) of Division 15~~
24 ~~of the Public Resources Code.~~

25 (g) ~~An applicant for the Large Nonresidential Standard~~
26 ~~Performance Contract Program funded pursuant to paragraph (1)~~
27 ~~of subdivision (b) and an electrical corporation shall promptly~~
28 ~~attempt to resolve disputes that arise related to the program's~~
29 ~~guidelines and parameters prior to entering into a program~~
30 ~~agreement. The applicant shall provide the electrical corporation~~
31 ~~with written notice of any dispute. Within 10 business days after~~
32 ~~receipt of the notice, the parties shall meet to resolve the dispute.~~
33 ~~If the dispute is not resolved within 10 business days after the date~~
34 ~~of the meeting, the electrical corporation shall notify the applicant~~
35 ~~of his or her right to file a complaint with the commission, which~~
36 ~~complaint shall describe the grounds for the complaint, injury, and~~
37 ~~relief sought. The commission shall issue its findings in response~~
38 ~~to a filed complaint within 30 business days of the date of receipt~~
39 ~~of the complaint. Prior to issuance of its findings, the commission~~
40 ~~shall provide a copy of the complaint to the electrical corporation,~~

1 which shall provide a response to the complaint to the commission
2 within five business days of the date of receipt. During the dispute
3 period, the amount of estimated financial incentives shall be held
4 in reserve until the dispute is resolved.

5 SEC. 4. ~~No reimbursement is required by this act pursuant to~~
6 ~~Section 6 of Article XIII B of the California Constitution because~~
7 ~~the only costs that may be incurred by a local agency or school~~
8 ~~district will be incurred because this act creates a new crime or~~
9 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
10 ~~for a crime or infraction, within the meaning of Section 17556 of~~
11 ~~the Government Code, or changes the definition of a crime within~~
12 ~~the meaning of Section 6 of Article XIII B of the California~~
13 ~~Constitution.~~